

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND
TOURISM

SUBTITLE 14

HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF
HAWAII

CHAPTER 190

FEDERALLY-ASSISTED HOUSING PROJECTS

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Historical Note: Chapter 190 of Title 15, Hawaii Administrative Rules, is substantially based upon Chapter 17-535, Hawaii Administrative Rules. [Effective 1/1/81; am and comp 2/11/85; am and comp 5/26/98; R DEC 03 2001]

SUBCHAPTER 1

GENERAL PROVISIONS

§15-190-1 Purpose. These rules are adopted under chapter 91, HRS, and shall govern the admission to and the continued occupancy of federally-assisted housing projects owned or operated by the corporation. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G Part II.A.; 24 C.F.R. Parts 5, 960, and 965)

§15-190-2 Definitions. As used in these rules, except otherwise required by context:

"Accessible dwelling unit" means an apartment that is located on an accessible route and when designed, constructed, altered, or adapted can be approached, entered, and used by individuals with physical handicaps or an apartment which meets the requirements of applicable standards that address the particular disability or impairment of an individual.

"Adjusted income" means "annual income" minus any HUD allowable expenses and deductions as defined in 24 C.F.R. §5.611, which is incorporated by reference and attached as exhibit A.

"Annual income" means the gross amount of income anticipated to be received by the family during the twelve months after certification or recertification. Gross income is the amount of income prior to any HUD allowable expenses or deductions, and does not include income which has been excluded by HUD, as defined in 24 C.F.R. §5.609, which is incorporated by reference and attached as exhibit B.

"Applicant" means an individual or family that submits an application for admission to the program but is not yet a participant in the program.

"Assets" or "net family assets" means net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment as defined in 24 C.F.R. §5.603, which is incorporated by reference and attached as exhibit C.

"Assisted housing" means housing assisted under the United States Housing Act of 1937.

"Backcharge" means the amount of arrears in rent owed to the corporation.

"Broad range of income" means attaining a tenant population in a project with a broad range of income that is generally representative of the range of income and the rent paying ability of lower income families.

"CFR" means the United States Code of Federal Regulations.

"Community service" means the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance

resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities.

"Community wide" means inclusive of any location that is under the jurisdiction of the corporation.

"Continuously assisted" means that the applicant is currently receiving assistance under any program of the United States Housing Act of 1937, as amended, and there is no break in assistance to the family.

"Corporation" means the housing and community development corporation of Hawaii, and successor to the Hawaii housing authority.

"Covered families" means families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

"Designated housing" or "designated project" means a project (or projects), or a portion of a project (or projects) that has been designated for occupancy by disabled families, elderly families, or mixed populations of disabled families and elderly families.

"Disabled family" means a family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

"Domestic violence" means the actual or threatened physical violence directed against a family member by a spouse or other household member who lives in the unit with the family.

"Drug related criminal activity" means the manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use a controlled substance as defined in 21 U.S.C. 802 and which activity is conducted on or near the premises of the assisted dwelling unit.

"Dwelling unit" means a residential unit in a housing project.

"Economic self-sufficiency program" means any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work for such families.

"Elderly" or "elderly family" means a family whose head, spouse, or sole member is a person who is at least sixty-two years of age; or two or more persons who are at least sixty-two years of age living together; or one or more persons who are at least sixty-two years of age living with one or more live-in aides.

"Eligible family" means a family that meets the qualifications and requirements of the program.

"Exempt individual" means an individual who is exempt from complying with community service or self-sufficiency activities and which is further defined in 24 C.F.R. §960.601(b), which is incorporated by reference and attached as exhibit D.

"Extremely low income family" means a family whose annual income does not exceed thirty per cent of the median income for the area, with adjustments for smaller and larger families, except that income ceilings higher or lower than thirty per cent of the median income for the area may be established if such variations are necessary because of unusually high or low family incomes.

"Family" means:

- (1) Two or more persons who live or intend to live together as a unit and whose income and resources are available to meet the family's needs and who may be related by blood, marriage, or operation of law and whose head of family has reached the age of majority. Family may include foster children and hanai children;
- (2) An elderly family;
- (3) A disabled family;
- (4) A displaced family;
- (5) The remaining member of a tenant family who is recorded as an authorized occupant on the

- (6) current list of household members and who has reached the age of majority; or
- (7) A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

"Family self sufficiency program" or "FSS program" means the program establish by the corporation in accordance with 24 C.F.R. Part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services.

"Federally-assisted housing projects" means the low-income federal assisted public housing projects as established by the United States Housing Act of 1937, as amended.

"Foster children" means a person or persons, under eighteen years of age who is not related to the foster parent by blood, marriage, or adoption and who is in need of parenting care.

"Foster parent" means any adult person who gives parenting care and maintenance to a foster child pursuant to placement by an authorized agency.

"Hanai children" means a person or persons, under eighteen years of age, for whom an applicant or participant provides food, nourishment and support for a minimum period of at least a year or has been recognized in the household for support by the Department of Human Services and who is acknowledged as the applicant's or participant's child among friends, relatives and the community.

"Handicapped" means the same as "disabled family".

"Housing projects" means those rental projects owned or operated by the corporation.

"HRS" means the Hawaii Revised Statutes.

"HUD" means the United States Department of Housing and Urban Development.

"Imputed welfare income" means the amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

"Involuntarily displaced" means an applicant who has vacated or will have to vacate the unit where the applicant lives because of one or more of the following:

- (1) Displacement by disaster;
- (2) Displacement by governmental action; or
- (3) Displacement by action of housing owner for reasons beyond the applicant's control and despite the applicant meeting all previously imposed conditions of occupancy. The action taken by the owner is for reasons other than rent increase.

"Live-in aide" means a person who resides with one or more elderly persons, or near elderly persons, or persons with disabilities, and who:

- (1) Is determined to be essential to the care and well-being of the persons;
- (2) Is not obligated for the support of the persons; and
- (3) Would not be living in the unit except to provide the necessary support services.

"Location" means any site comprising a common geographic area undivided by natural or man-made barriers (such as rivers, highways, railroads, or other major obstructions) that block or impede normal pedestrian traffic and which may contain more than one project.

"Low income family" means a family whose annual income does not exceed eighty per cent of the median income for the area, with adjustments for smaller and larger families, except that income ceilings higher or lower than eighty per cent of the median income for the area may be established if such variations are necessary because of unusually high or low family incomes.

"Near elderly family" means a family whose head, spouse, or sole member is at least fifty years of age but below the age of sixty two, or two or more persons who are at least fifty years of age but below the age of sixty two living with one or more live-in aides.

"Part-time resident aide" or "nineteen hour tenant aide" means a tenant of a housing project,

employed by the corporation, who works not more than nineteen hours a week.

"PHA plan" means the corporation's public housing agency plan that is prepared pursuant to 24 CFR Part 903.

"Refusal of an offer" means an applicant declines an offer made by the corporation for a specific unit from any waiting list or an applicant's failure to respond to a written offer from the corporation for a specific unit within the time specified in the offer.

"Rental agreement" means the agreement containing the conditions of occupancy entered into by the tenant and corporation.

"Resident" means a United States citizen or a permanent United States resident who is able to demonstrate his or her intent to reside in Hawaii. Intent to reside in Hawaii may be demonstrated by the following: length of time spent in Hawaii; leasing or renting of a home in Hawaii; filing of personal Hawaii income tax returns; registering to vote in Hawaii. Hawaii driver's license; record of Hawaii motor vehicle registration; notification of hire to work in Hawaii; records of employment in Hawaii; military records substantiating Hawaii residency; enrollment of minor children in Hawaii schools; establishment of bank accounts and other accounts in Hawaii; written reference from Hawaii residents, relatives, or social agencies; and any other indicia which could substantiate a claim of an intent of reside.

"Security deposit" means a deposit required of each tenant prior to admission for the cost of loss or damage of the corporation's property (responsible wear and tear excepted) and non-payment of rent.

"Serviceman" means a person active in the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States, and since July 29, 1945, the Commissioned Corps of the U.S. Public Health Service who has served therein at any time:

- (1) On or after April 6, 1917, and prior to November 11, 1918:
- (2) On or after September 16, 1940, and prior to July 26, 1947:

- (3) On or after June 27, 1950, and prior to February 1, 1955; or
- (4) On or after August 6, 1964 and prior to May 7, 1975.

"Staff" means the employees or agents of the corporation.

"Substandard housing" means a unit that:

- (1) Is dilapidated;
- (2) Does not have operable indoor plumbing;
- (3) Does not have a usable flush toilet inside the unit for the exclusive use of a family;
- (4) Does not have a usable bathtub or shower inside the unit for the exclusive use of a family;
- (5) Does not have electricity, or has inadequate or unsafe electrical service;
- (6) Does not have a safe or adequate source of heat;
- (7) Should, but does not, have kitchen; or
- (8) Has been declared unfit for habitation by an agency or unit of government.

"Tenant" means the person or persons who enter into a rental agreement with the corporation for a dwelling unit.

"U.S.C." means the United States Code.

"Utility allowance" means the value of utilities such as electricity, gas, and water costs that are included in the gross rent of the participant. This does not include telephone or cable television services.

"Utility reimbursement" means the amount, if any, by which the utility allowance for the unit exceeds the total tenant payment of the family occupying the unit.

"Very low-income family" means a family whose annual income does not exceed fifty per cent of the median income for the area, with adjustments for smaller and larger families, except that income ceilings higher or lower than fifty per cent of the median income for the area may be established if such variations are necessary because of unusually high or low family incomes.

"Veteran" means any person who served in the military or naval forces of the United States who has been discharged or released from active service under conditions other than dishonorable.

"Violent criminal activity" means any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

[Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-32; 24 C.F.R. Part 5, Subparts A, D, F, 960.102)

§15-190-3 Income limits. Income limits for an applicant's admission to a housing project shall be as prescribed by exhibit E, which is incorporated by reference and attached. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G Part II.A; 24 C.F.R. §5.601)

§15-190-4 Asset transfers. (a) All assets transferred or assigned to another person, within a twenty-four month period prior to submitting an application shall be included in determining an applicant's assets.

(b) The value of the assets shall be based on the fair market value. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-32; 24 C.F.R. §5.603)

§15-190-5 Occupancy guidelines. (a) The corporation shall establish occupancy guidelines to maintain the maximum usefulness of the dwelling units, while preventing excessive wear and tear or underutilization. The occupancy guidelines are incorporated by reference and attached as exhibit F.

(b) The occupancy guidelines shall provide for minimum and maximum unit sizes depending on the number of persons in a household for purposes of determining unit size for the wait list. The occupancy guidelines are not to be confused with the corporation's

occupancy standards, which are based on prevailing county building codes. [Eff **DEC 03 2001**] (Auth: HRS §201G-15) (Imp: HRS §201G-32; 24 C.F.R. §960.204).

§15-190-6 Occupancy standards. Applicant and tenant shall abide by the occupancy standards for the admission and continued occupancy in housing projects as prescribed by the occupancy standards which are incorporated by reference and attached as exhibit G. The standards follow the occupancy codes of the county in which the units are located. [Eff **DEC 03 2001**] (Auth: HRS §201G-15) (Imp: HRS §201G-32; 24 C.F.R. §960.204).

§15-190-7 Utility allowances. (a) The monthly rent for a tenant residing in a federally assisted housing project shall include utility allowances established in accordance with HUD's standards for utility allowances. The utility allowance schedules are incorporated by reference and attached as exhibit H.

(b) The utility allowance schedule may be modified from time with at least thirty days written notice to tenant and an opportunity for tenant to present written or oral comments, which shall be considered prior to the modifications becoming effective. The applicable schedules shall be publicly posted in a conspicuous manner at the corporation's project offices and shall be furnished upon request.

(c) A tenant shall pay for utility usage in excess of the applicable utility allowance.

(d) A tenant shall receive a utility reimbursement when the utility allowance exceeds the total tenant payment with the exception of tenants paying a flat rent. [Eff **DEC 03 2001**] (Auth: HRS §201G-15) (Imp: HRS §201G-32; 24 C.F.R. §§5.603, 5.632, 960.253, Part 965 Subpart E, §966.4;)

§15-190-8 Verification of information. An applicant or tenant shall provide documentation to verify information upon request of the staff. [Eff **DEC 03 2001**] (Auth: HRS §201G-15) (Imp: HRS §201G-32; 24 C.F.R. §960.204)

§15-190-9 Misrepresentation. An applicant may be denied admission to a housing project if the applicant has submitted false information, withheld information, or made willful misstatements. A tenant who does the same may be denied continued eligibility and have the rental agreement terminated. [Eff **DEC 03 2001**] (Auth: HRS § 201G-15) (Imp: HRS §201G-32; 24 C.F.R. §966.4;)

SUBCHAPTER 2

ELIGIBILITY

§15-190-21 Applicants. (a) A person seeking admission to a housing project shall submit a completed pre-application form prepared by the corporation. The applicant may file at any of the corporation's in-take offices and apply for any and all waiting list areas prescribed in 15-190-36.

(b) An applicant who has misrepresented material information shall not be eligible to file an application with the corporation for twelve months from the date of written notification from the corporation. [Eff **DEC 03 2001**] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§960.204, 960.205)

§15-190-22 Eligibility for admission and participation. (a) To be eligible for participation in the program, applicant and household members shall meet all of the requirements of the pre-application and final-application phases as set forth below:

- (1) During the pre-application phase, the applicant and adult household members shall:
 - (A) Qualify as a family;
 - (B) Be income eligible as determined under section 15-190-3;
 - (C) Not have an outstanding debt owed to the corporation as a participant in any of its programs;
 - (D) Not have an outstanding liability for unpaid rent or damages incurred while previously participating in any section 8 rental subsidy program;
 - (E) Provide a social security number for all family members who are at least six years of age or certify that the person does not have a social security number;
 - (F) Not have been evicted since March 1, 1985, from a public housing program administered by the corporation or its predecessor, Hawaii housing authority;
 - (G) Not have been evicted from assisted housing by reason of drug-related criminal activity for a three-year period beginning on the date of the eviction unless the evicted tenant successfully completes a rehabilitation program approved by the corporation;
 - (H) Not have committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
 - (I) Not be illegally using a controlled substance or give the corporation a reasonable cause to believe that the illegal use (or pattern of illegal use) of a controlled substance or abuse alcohol by a household member, (or pattern of abuse) may interfere with the health, safety, or right to peaceful enjoyment of a rental premises by other residents;

- (i) For the purposes of this subsection, "reasonable cause to believe" means by a preponderance of the evidence;
- (ii) For the purposes of this subsection, in determining whether to deny eligibility based on a pattern of illegal use of a controlled substance or a pattern of abuse of alcohol by a household member, the corporation may consider rehabilitation as provided for under 42 U.S.C. §13661(b)(2)(A)-(C) effective October 1, 1999, which is incorporated by reference and attached as exhibit I;
- (K) Not currently or during a three year period preceding the date when the applicant household would otherwise be selected for admission be engaged in any drug-related criminal activity or violent criminal activity which would adversely affect the health, safety, right to peaceful enjoyment of the premises by other residents, the owner, or corporation employees;
- (L) Not have been convicted in the manufacture, production, or distribution of methamphetamines; and
- (M) Not subject to lifetime registration requirements under any State sex offender's registration program.
- (2) During the final application phase, the applicant and all adult household members shall meet the requirements as set forth in (1), above, as well as the following requirements:
 - (A) Not engaged in or threatened abusive or violent behavior toward the corporation's personnel. For purposes of this subsection, "threatened" means

an oral or written threat or physical gestures that communicate intent to abuse or commit violence. Abusive or violent behavior may be verbal or physical and include use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate; and

- (B) Furnish evidence of citizenship or eligible immigrant status as provided for in 24 C.F.R. §5.508, which is incorporated by reference and attached as exhibit J.

(b) An applicant who is continuously assisted under the U.S. Housing Act of 1937 Housing Act, as amended, shall be admitted to the program as though the applicant was already a program participant.

[Eff **DEC 03 2001**] (Auth: HRS §§201G-15) (Imp: HRS §201G-32; 24 C.F.R. §§5.216, 960.202, 960.204, 960.205)

§15-190-23 Notification of eligibility. (a) Upon making a determination of eligibility, the corporation shall mail a written notification to an applicant. The notification shall specifically state the reasons for determination.

(b) An eligible applicant shall be placed on the waiting list.

(c) An applicant determined to be ineligible for admission or participation in the program shall be provided an opportunity for an informal hearing pursuant to section 15-190-24. [Eff **DEC 03 2001**] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §960.204)

§15-190-24 Informal hearing for applicants determined to be ineligible for admission. (a) An applicant determined to be ineligible for admission or

participation in the program may request an informal hearing by submitting a written request within fourteen working days from the date of notification of ineligibility.

(b) The informal hearing shall be scheduled within twenty-one working days from the date the written request is received and shall be conducted by any person or persons designated by the corporation, but shall not be a person who made or approved the determination of ineligibility or a subordinate of this person.

(c) The applicant shall be given the opportunity to present evidence, which shall be considered by the hearing officer, along with the data compiled by the corporation.

(d) A written notice of the hearing officer's decision shall be mailed to the applicant within twenty-one working days after the hearing. The notice shall include an explanation of the reasons for decision. [Eff **DEC 03 2001**] (Auth: HRS §201G-15) (Imp: §201G-15; 24 C.F.R. §960.204)

SUBCHAPTER 3

TENANT SELECTION

§15-190-31 Nondiscrimination. Tenant selection and assignment shall be made without regard to race, color, sex, religion, marital status, creed, national or ethnic origin, age, familial status, handicap or disability or HIV infection. [Eff **DEC 03 2001**] (Auth: HRS §201G-15) (Imp: HRS §201G-5; 24 C.F.R. §960.103)

§15-190-32 Income targeting. Not less than forty per cent of families admitted to the program during the fiscal year from the waiting list shall be extremely low income families. [Eff **DEC 03 2001**]

(Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §960.202)

§15-190-33 Deconcentration. (a) For federally-assisted housing projects, the corporation shall give priority to applicants to ensure that, to the maximum extent feasible, the housing projects will include families with a broad range of income generally representative of low income families in the corporation's area of operation. The corporation shall not allow dwelling units to remain vacant awaiting an applicant who meets the appropriate income range.

(b) The corporation may not concentrate very low-income families in dwelling units in certain public housing projects or certain buildings within projects. Additionally, the corporation may not concentrate higher income families in dwelling units in certain housing projects or certain buildings within projects.

[Eff **DEC 03 2001**] (Auth: HRS §201G-15) (Imp: §201G-32; 24 C.F.R. §§5.607, 903, 960.204, 960.205)

§15-190-34 Local preferences. (a) Eligible applicants shall be given preference for admission in the program in the order of the dates of their applications if, at the time they are seeking housing assistance, they fall within the following preference categories:

- (1) The following preferences shall be given first priority but have equal weight within this group:
 - (A) Involuntarily displaced;
 - (B) Victims of domestic violence; or
 - (C) Homeless families that are residing in transitional shelter for the homeless and who are in compliance with a social service plan.

- (2) The following preferences shall be given second priority but have equal weight within this group:
 - (A) Living in substandard housing; or
 - (B) Paying more than fifty per cent of annual income for rent.
 - (3) The following are other preferences having equal weight:
 - (A) Veterans and veterans' surviving spouse;
 - (B) Residents who live and/or work in the jurisdiction (by county);
 - (C) Families that contribute to meeting the corporation's income targeting requirements;
 - (D) Victims of reprisals or hate crimes; or
 - (E) Working families and those unable to work because of age or disability.
- (b) Each preference in each priority group is of equal weight and an applicant who qualifies for any of the preferences shall receive assistance before any other applicant who is not so qualified regardless of:
- (1) Place on the waiting list; or
 - (2) Date or time of submission of an application.
- (c) A single applicant who is elderly, disabled or displaced shall be given preference over all other single applicants, regardless of the other single applicant's local preference.
- (d) An applicant shall not receive preference if any adult member of the applicant family is a person who was evicted or terminated from any housing program operated by the corporation for a three-year period beginning on the date of eviction because of drug-related criminal activities unless the adult member has successfully completed a rehabilitation program approved by the corporation. [Eff DEC 03 2001]
 (Auth: HRS §201G-15) (Imp: HRS §201G-32; 24 C.F.R. §960.204)

§15-190-35 Loss of preference. An applicant who declines three offers of a housing unit, without just cause, or who voluntarily requests cancellation of the application after declining an offer, shall lose all preferences and priorities for a period of twelve months from the date the offer was declined or from the date of the request for cancellation. [Eff
DEC 03 2001] (Auth: 24 C.F.R. §960.204; HRS §201G-15) (Imp: 24 C.F.R. §960.204; HRS §201G-32)

§15-190-36 Waiting list. (a) The corporation shall maintain geographical waiting lists, which are community wide in scope and consist of all eligible applicants as follows:

- (1) City and County of Honolulu
 - (A) Honolulu (Red Hill to Palolo);
 - (B) Central Oahu (Wahiawa to Waialua);
 - (C) Windward Oahu; and
 - (D) Leeward Oahu (Pearl City, Waipahu, Waianae, Nanakuli, Kapolei).
- (2) County of Hawaii
 - (A) East Hawaii (Hilo, Honokaa to Ka'u); and
 - (B) West Hawaii (Kona, Kohala, Waimea).
- (3) County of Maui
 - (A) East Maui (Kahului to Wailuku);
 - (B) West Maui (Lahaina); and
 - (C) Molokai.
- (4) County of Kauai
 - (A) East Kauai (Hanamaulu to Kapaa, Kilauea); and
 - (B) West Kauai (Koloa to Kekaha).

(b) Applicants shall be notified of the opportunity to apply for and be placed on any and all waiting lists through notices posted in a conspicuous place at the corporation's offices that accept applications and printed statements in the corporation's informational material on its application process.

(c) Placement of applications on the waiting list shall be based upon the following:

- (1) Geographic preference;
 - (2) Size of dwelling unit required based on occupancy standards;
 - (3) Type of dwelling unit required (e.g., accessible for persons with disabilities);
 - (4) Local preference, and
 - (5) Date and time of receipt of application.
- (d) Applicant cannot remain on a waiting list if they are currently the lessee in any federal public housing program.

(e) An applicant shall notify the corporation of any change, which will affect applicant's place on the waiting list and the corporation's ability to contact applicant. Changes include, but are not limited to, family status, financial status, preference status, mailing address, and current residence. An applicant may continue to be on the waiting list even though applicant is a tenant in or receiving housing assistance from another housing program. [Eff

DEC 03 2001] (Auth: 24 C.F.R. §§1.4, 960.204; HRS §201G-15) (Imp: 24 C.F.R. §960.204; HRS §201G-32)

§15-190-37 Removal from waiting list. (a) An applicant shall not be removed from the waiting list unless:

- (1) The applicant requests that applicant's name be removed;
- (2) The applicant fails to notify the corporation of applicant's continued interest for housing at least once every twelve months;
- (3) The applicant no longer meets the eligibility criteria set forth in 15-190-22;
- (4) The applicant fails to respond to the corporation's reasonable contact efforts. Correspondence to the last known address will constitute reasonable effort to contact;
- (5) The applicant fails without good cause to keep a scheduled interview or to provide

- (6) requested information necessary to determine eligibility; or
- (7) The applicant misrepresents any material information to the corporation in the application or otherwise. [Eff DEC 03 2001]
] (Auth HRS §201G-15) (Imp: HRS §201G-32; 24 C.F.R. §§960.204, 960.206, 960.208)

§15-190-38 Closing the waiting list. (a) The corporation, at its discretion, may restrict acceptance of applications, and close the waiting list in whole or in part, when it determines that it will be unable to assist all the applicants on the waiting list within a reasonable period of time.

(b) The corporation shall announce any closure and reopening of the application process by publishing notices in a newspaper of general circulation and minority newspapers, and notifying social service organizations.

(c) During periods when application acceptance is closed and until it is reopened, the corporation shall not maintain a list of persons to be notified when application acceptance is reopened. [Eff DEC 03 2001]
] (Auth: HRS §201G-15) (Imp: HRS §201G-32; 24 C.F.R. §960.204)

§15-190-39 Offers. (a) An applicant shall be afforded three offers to lease a suitable unit.

(b) Offers to eligible applicants shall be made in sequence based upon the following:

- (1) Geographical preference;
- (2) Size of dwelling unit required;
- (3) Type of dwelling unit required (e.g. accessible units for the mobility, hearing or visually impaired);
- (4) Factors affecting priorities and preferences as established by the corporation;
- (5) Broad range of income families in the area; and
- (6) Date and time the application was received.

(d) Upon refusal of three offers, without good cause, the applicant's name will be cancelled from all waiting lists on which the applicant's name has been placed.

(e) An applicant shall not be considered to have been offered a unit if an offer has been declined for good cause. Good cause may include, but is not limited to the following:

- (1) The unit is not of the proper size or type and the applicant would be able to reside there only temporarily (e.g., a specially designed unit that is awaiting a person with a disability needing such a unit);
- (2) The unit offered is unsuitable for health or safety reasons for the applicant;
- (3) The applicant is unable to move at the time of the offer and presents clear evidence which substantiates this to the corporation's satisfaction, including, but not limited to:
 - (A) A doctor verifies that the applicant has just undergone major surgery and needs a period to recuperate;
 - (B) A court verifies that the applicant is serving on a jury which has been sequestered; or
 - (C) A landlord verifies that the applicant has an existing lease that cannot be breached without causing undue financial hardship.
- (4) The applicant's acceptance of the offer would result in undue hardship not related to consideration of race, color, national origin, or language and the applicant presents evidence which substantiates this to the corporation's satisfaction (e.g., where current employment or day care facilities are inaccessible).

[Eff **DEC 03 2001**] (Auth: HRS
 §201G-15) (Imp: HRS §201G-32; 24 C.F.R.
 §960.204)

§15-190-40 Occupancy of accessible dwelling units. (a) The corporation shall take the following nondiscriminatory steps to maximize the utilization of accessible units by eligible individuals whose disability requires the accessibility features of the particular unit. When an accessible unit becomes vacant the corporation shall, before offering such units to an applicant without a disability, offer such unit:

- (1) First, to a current occupant of another unit of the same project or other projects within the same housing program, having handicaps requiring the accessibility features of the vacant unit and occupying a unit not having such features, or, if no such occupant exists, then
- (2) to an eligible qualified applicant on the waiting list having a disability requiring the accessibility features of the vacant unit.

(b) When an applicant without a disability requiring the accessibility features of the unit accepts such unit, the applicant shall be required to agree to move to a non-accessible unit when one becomes available. [Eff **DEC 03 2001**] (Auth: §201G-15) (Imp: HRS §201G-32; 24 C.F.R. §§8.27, 5.410, 960.204; HRS §201G-32)

SUBCHAPTER 4

OCCUPANCY AND RENTAL AGREEMENT

§15-190-51 Rental agreement. (a) A tenant shall enter into a rental agreement with the corporation that sets forth the conditions of occupancy for the tenant including, but not limited to, the rental terms, security deposit, eligibility reexaminations and rental adjustments, and for welfare recipients, authorization for the corporation to draw rental payments directly from their EBT or bank accounts.

(b) No tenant shall be permitted to remain in a housing project without a valid rental agreement.

[Eff **DEC 03 2001**] (Auth: HRS §201G-15) (Imp: HRS §201G-32; 24 C.F.R. §966.4)

§15-190-52 Eligibility for continued occupancy.

(a) To be eligible for continued occupancy in a housing project, the tenant shall:

- (1) Qualify as a family;
- (2) Conform to the occupancy standards;
- (3) Not have a record of conduct or behavior which may be detrimental to the project, its tenants or employees; and
- (4) Except for an exempt individual, conform to the following community service and economic self-sufficiency requirements:
 - (A) Contribute eight hours per month of community service (not including political activities);
 - (B) Participate in an economic self-sufficiency program for eight hours per month; or
 - (C) Perform eight hours per month of combined activities as described in paragraphs (A) and (B), above.

(b) Except for a newborn child, a person shall not be permitted to join or rejoin the family until it is verified that the person meets the eligibility requirements set forth in section 15-190-22. [Eff

DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-32; C.F.R. §§960.204, 960.603)

§15-190-53 Reexamination. (a) For tenants who pay an income-based rent, the corporation shall reexamine a tenant's annual income, assets, family composition, and any other matter necessary to determine a tenant's rent and eligibility for continued occupancy at least once every twelve months.

(b) For tenants who pay a flat rent pursuant to section 15-190-62, the corporation shall conduct reexaminations as follows:

- (1) At least once every twelve months, the corporation shall reexamine a tenant's family composition and any other matter necessary to determine a tenant's eligibility for continued occupancy; and
- (2) At least once every three years, the corporation shall reexamine a tenant's annual income, assets and any other matter necessary to determine a tenant's eligibility for continued occupancy.

(c) For all tenant families who include non-exempt individuals, the corporation shall also annually reexamine compliance with community service and economic self-sufficiency requirements. [Eff

DEC 03 2001] (Auth: HRS §201G-15)
(Imp: HRS §201G-15; 24 C.F.R. §966.4)

§15-190-54 Reexamination results. (a) A tenant shall be given written notification within a reasonable time, after determination by the staff, of both the tenant's eligibility for continued occupancy and rent schedule.

(b) A tenant found ineligible for continued occupancy by the staff shall be required to vacate the dwelling unit.

(c) A tenant aggrieved by the reexamination results may request a hearing pursuant to the corporation's grievance procedure as provided in chapter 15-183, Hawaii administrative rules. [Eff

DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §966.4)

§15-190-55 Special reexamination. If at the time of admission or reexamination, a family's income cannot be reasonably determined for the next twelve months, a special reexamination shall be scheduled for either one, two, or three months. [Eff DEC 03 2001]

(Auth: HRS §201G-15) (Imp: HRS §201G-32; 24 C.F.R. §5.609)

§15-190-56 Interim rent adjustment. (a) The corporation may adjust a tenant's rent between reexamination if a tenant reports a change in family income. However, adjustments to rent shall not be made for covered families with reduced welfare benefit payments resulting from welfare sanctions for noncompliance with welfare self-sufficiency and work activity requirements.

(b) Adjustments, reflecting a lower rent, shall be made effective on the first of the month following the month the report was made.

(c) A tenant who has obtained a decrease in rent under this section, shall report all income increases which occur prior to the next reexamination and rent shall be readjusted accordingly. Any increase in rent shall be effective on the first day of the second month following the month in which the change occurred.

(d) A tenant who fails to report any increase in income after obtaining a decrease in rent under this section shall be subject to a back rent charge retroactive to the month in which the rent increase should have been made.

(e) A tenant shall report to the corporation any changes in family composition. Rent adjustment shall be made between reexaminations when a person with income is added to the family and the rent adjustment shall be effective on the first of the second month following the approved inclusion. [Eff

DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-32; 24 C.F.R. §§5.615, 966.4)

§15-190-57 Tenant transfers. (a) Tenant transfers shall be made without regard to race, sex, color, creed, age, religion, handicap, national origin, or familial status.

(b) The corporation may transfer a tenant to another dwelling unit:

- (1) To prevent overcrowding or under utilization of a dwelling unit as determined by the corporation at the time of the annual or interim reexamination;
- (2) To preserve the purpose for which a project or unit was specifically developed or designed such as to meet the needs of the elderly or persons with disabilities;
- (3) To meet a verifiable health or safety need;
- (4) For economic reasons affecting the tenant or the corporation; or
- (5) For administrative reasons determined by the corporation including, but not limited to, permitting modernization work and transferring eligible tenants with disabilities from State-aided public housing projects to federally-assisted housing projects.

(c) Tenant transfers shall take priority over new admissions.

(d) A tenant shall be afforded one offer to transfer to a unit that meets the criteria set forth in (b) above within the same housing project in which the tenant resides. If such unit is not available, tenant may then be offered a unit in another housing project under the control of the management unit. If such a unit is not available, tenant may then be offered a suitable unit on the island on which tenant resides. Declining an offer to transfer for good cause as determined by the corporation shall not be considered a refusal.

(e) A tenant shall not be transferred during periods when eviction proceedings have been initiated or are in process against such tenant or during any periods of conditional deferment of eviction action against such tenant.

(f) A tenant who is not current with rent or other charges and who does not have an approved payment arrangement shall not be transferred until the

situation is resolved to the satisfaction of the corporation.

(g) A tenant shall not be transferred between any federally-assisted housing programs.

(h) The corporation may terminate the rental agreement of a tenant who refuses to transfer as required by the corporation. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-32; 24 C.F.R. §966.4)

§15-190-58 Backcharges. A tenant shall pay in full any backcharges within one hundred eighty days from the date of notification of the backcharge. Failure to do so shall result in the termination of the rental agreement. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-32; 24 C.F.R. §966.4)

§15-190-59 Rental agreement termination. (a) Tenant shall give the corporation at least twenty-eight days written notice that the tenant will vacate the tenant's unit prior to the vacate date.

(b) The corporation may terminate a rental agreement when tenant, any member of the tenant's household, or any guest or other person under the tenant's control:

- (1) Fails to observe or perform any covenant or obligation of the rental agreement, or rule of the corporation of housing project, or law or ordinance of a governmental agency that pertains to or establishes standards of occupancy;
- (2) Engages in the illegal use of a controlled substance or gives the corporation a reasonable cause to believe that the illegal use (or pattern of illegal use) of a controlled substance or abuse (or pattern of abuse) of alcohol may interfere with the health, safety, or right to peaceful enjoyment of a rental premises by other residents;

- (3) Whose illegal use of a controlled substance, or abuse of alcohol, is determined by the corporation to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents;
 - (4) Who the corporation determines engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents;
 - (5) Who the corporation determines engages in any drug-related criminal activity on or near the corporation's property; or
 - (6) Tenant threatens or implies to threaten an employee/ contractor or agency.
- (b) The corporation shall give a tenant written notice of the proposed termination of the rental agreement of not less than:
- (1) Fourteen days in the case of failure to pay rent;
 - (2) A reasonable time commensurate with the exigencies of the situation in the case of creation or maintenance of a threat to the health or safety of other tenants or project employees; or
 - (3) Thirty days in all other cases.
- (c) The corporation shall terminate a rental agreement in accordance with chapter 201G. [Eff
- DEC 03 2001] (Auth: §201G-15) (Imp: HRS §201G-52; 24 C.F.R. §966.4)

SUBCHAPTER 5

RENTS AND SECURITY DEPOSITS

§15-190-61 Minimum rents. (a) There is established a minimum rent of \$50.00 per month.

(b) Exception to the payment of the minimum rent shall apply if the family is unable to pay because of financial hardship which is determined pursuant to 24

C.F.R. §5.630 (2000) and includes the following situations:

- (1) The family has lost eligibility or is awaiting an eligibility determination for federal, state, or local assistance;
- (2) The family would be evicted as a result of the imposition of the minimum rent requirement;
- (3) The income of the family has decreased because of changed circumstances, including:
 - (A) Loss of employment;
 - (B) An income producing family member dies; and
 - (C) Other circumstances beyond the family's control as determined by the corporation. [Eff **DEC 03 2001**]
 (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. 5.630)

§15-190-62 Choice of rent. Once a year, the corporation shall give each tenant the opportunity to choose between two methods of determining the monthly tenant rent. The tenant may choose to pay either a flat rent or income-based rent.

(a) The flat rent shall be the fair market rents (or "FMRs") that are determined by HUD, at least annually, pursuant to 24 C.F.R. §888.113. These fair market rents, which include utilities (exclusive of telephone and cable television), are established for dwelling units of various bedroom sizes, and which are incorporated by reference and attached as exhibit K.

(b) The income-based rent is based on thirty per cent of tenant's adjusted income or ten per cent of income, whichever is greater.

- (1) The income-based rent does not include charges for excess utility consumption or other charges.
- (2) For purposes of establishing the income-based rent, the corporation shall exclude from annual income the earned income of previously unemployed family members and

increases in earnings of a family member during participation in any economic self-sufficiency or other job training program as provided for in 24 C.F.R. §960.255 and the PHA plan.

(c) If a tenant is unable to pay the flat rent because of financial hardship, the tenant may at any time request a switch to payment of income-based rent prior to the next annual option to select the type of rent. [Eff **DEC 03 2001**] (Auth: HRS §201G-15) (Imp: HRS §201G-32; 24 C.F.R. §§5.628, 960.255)

§15-190-63 Security deposits. Prior to admission to a housing project, a tenant shall pay a security deposit in an amount not to exceed one month's rent. The security deposit may be applied to rent or used to repay charges owed to the corporation upon the termination of the rental agreement. [Eff **DEC 03 2001**] (Auth: HRS §201G-15) (Imp: HRS §201G-32; 24 C.F.R. §966.4).

SUBCHAPTER 6

FAMILY SELF-SUFFICIENCY PROGRAM

§15-190-71 Family self-sufficiency program. The objective of the corporation's family self-sufficiency (FSS) program is to reduce the dependency of low-income families on welfare assistance, section 8, public housing, or any federal, state, or local rent or homeownership subsidies. Under the family self-sufficiency program, low-income families are provided opportunities for education, job training, counseling, and other forms of social service assistance, while living in assisted housing, so that they may obtain the education, employment, and business and social skills necessary to achieve self-sufficiency. [Eff **DEC 03 2001**] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. Part 984)

§15-190-72 Eligibility. (a) Tenants in the corporation's federal public housing program are eligible to participate in the family self-sufficiency program.

(b) Preference shall be given to applicants who already receive family-self sufficiency-related support services for fifty per cent or less of the allocations. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. Part 984)

§15-190-73 Recruitment and outreach. (a) The corporation shall conduct outreach programs to recruit participants for the family-self sufficiency program.

(b) Outreach efforts may include the following:

- (1) Sending informational brochures to each family participating in the corporation's federal public housing program;
- (2) Conducting orientation sessions for families who express an interest in participating in the family self-sufficiency program; and
- (3) Identifying and targeting potential families in the corporation's caseloads. [Eff

DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. Part 984)

§15-190-74 Selection. (a) Families will be selected without regard to race, color, religion, sex, handicap, familial status, or national origin.

(b) Families will be selected by date of receipt of the family-self sufficiency application.

(c) In the event there are more applicants than family self-sufficiency allocations available, the corporation shall conduct a lottery to determine placement on the waiting list.

(d) Initially, up to twenty-five tenants may be selected to participate in the family self-sufficiency program. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. Part 984)

§15-190-75 Termination or withholding of service. (a) The corporation shall monitor and assess the family self-sufficiency participant's progress and compliance with the goals set forth in the contract of participation. When the corporation determines that the family self-sufficiency participant is not making progress or complying with the goals of the contract of participation, the corporation shall notify the family self-sufficiency participant of such determination and provide the family self-sufficiency participant six months to demonstrate compliance with the plan of the contract of participation.

(b) If no progress has been made or the family self-sufficiency participant is still not complying with the contract of participation after the six-month period, the corporation shall provide the family self-sufficiency participant with a written notice of intent to terminate or withhold services and of the opportunity to request an informal hearing. [Eff

DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. Part 984)

SUBCHAPTER 7

SPECIAL PROGRAMS

§15-190-81 Special programs. The corporation may administer programs that are created for special or specific purposes to benefit specific categories of persons pursuant to HUD regulations governing those programs. This may include selection from wait lists and lists of participants using criteria that are different from those provided in this chapter.

[Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. 960.505)

§15-190-82 Occupancy by police officers. (a) For purposes of this section, "police officer" means a

person determined by the corporation to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a federal, State or local government or by any agency of these governments.

(b) For the purpose of increasing security for residents of a public housing project, the corporation may allow police officers that would not otherwise be eligible for occupancy in public housing, to reside in a public housing dwelling unit.

(c) The corporation shall include in the PHA annual plan or supporting documents the number and location of the units to be occupied by police officers, and the terms and conditions of their tenancies; and a statement that such occupancy is needed to increase security for public housing residents.

(d) Occupancy by police officers shall be carried out pursuant to 24 C.F.R. 960, subpart E. [Eff **DEC 03 2001**] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. 960.505)

§15-190-83 Designated housing. (a) The corporation may designate public housing projects, or portions of public housing projects, for occupancy by disabled families, elderly families, or mixed populations of disabled and elderly families.

(b) The corporation shall designate public housing projects, or portions of public housing projects in accordance with 24 C.F.R. Part 945. The corporation shall also include a description of the designation activity in the PHA plan. [Eff **DEC 03 2001**] (Auth: HRS 201G-15) (Imp: HRS §201G-15; 24 C.F.R. Part 945)

SUBCHAPTER 8

HOUSEHOLD PETS

§15-190-91 Pet ownership. (a) The corporation may permit pet ownership by residents of public housing, subject to compliance with the corporation's pet policy established in the PHA plan.

(b) This subchapter does not apply to animals that assist, support or provide service to persons with disabilities. [Eff DEC 03 2001]
(Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§960.705, 960.707)

§15-190-92 Conditions for pet ownership. (a) A resident shall comply with the corporation's reasonable conditions for pet ownership that include, but are not limited to, the following:

- (1) Obtaining a permit from the corporation to own a pet pursuant to the requirements set forth in the corporation's pet policy established in the PHA plan; and
- (2) Complying with the corporation's rules for pet ownership.

(b) The corporation may revoke a pet permit for the following reasons:

- (1) The corporation determines that the pet is not properly cared for;
- (2) The pet presents a threat to the safety and security of other tenants, employees of the corporation, contractors and others on the premises;
- (3) The pet is destructive or causes an infestation;
- (4) The pet disturbs other tenants for reasons including, but not limited to, noise, odor, cleanliness, sanitation, and allergic reactions;

- (5) The pet owner fails to provide an annual update on the pet as required in the pet rules;
 - (6) The resident association or project pet committee, which consists of residents with and without a pet, recommends to the corporation that the pet permit be revoked due to a demonstrated lack of cooperation and responsibility in maintaining the pet; or
 - (7) Tenant fails to pay on a timely basis the following applicable pet fees:
 - (A) An initial pet deposit of \$75.00 or an amount equal to the total tenant payment, whichever is lower and
 - (B) For owners of a dog or cat, a non-refundable monthly fee of \$5.00. [Eff DEC 03 2001] (Auth: HRS §201G-15)
- (Imp: HRS §201G-15; 24 C.F.R. §§960.705, 960.707)

SUBCHAPTER 9

MISCELLANEOUS PROVISIONS

§15-190-101 Severability. If any part, section, sentence, clause, or phrase of this chapter, or its application to any person or transaction or other circumstances, is for any reason held to be unconstitutional or invalid, the remaining parts, sections, sentences, clauses, and phrases of this chapter, or the application of this chapter to other persons or transactions or circumstances, shall not be affected. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §1-23)

§15-190-102 Number and gender. Words in the singular or plural number and masculine gender shall have the same meaning as defined in section 1-17, HRS.

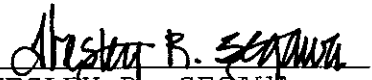
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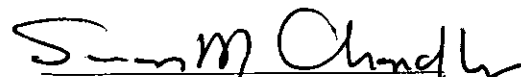
[Eff **DEC 03 2001**] (Auth: HRS §201G-
15) (Imp: HRS §1-17)

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

The repeal of Chapter 17-535, Hawaii Administrative Rules, and the adoption of Chapter 15-190, Hawaii Administrative Rules, on the Summary page dated September 20, 2001, was adopted on September 20, 2001, following a public hearing held on August 28, 2001, after public notice was given in the Honolulu Advertiser on July 27, 2001.

The repeal and adoption shall take effect ten days after filing with the Office of the Lieutenant Governor.


WESLEY B. SEGAWA
Chairperson
Housing and Community
Development Corporation
of Hawaii Board of
Directors


SUSAN M. CHANDLER, MSW,
Ph.D.
Director of Human
Services

APPROVED AS TO FORM:


Deputy Attorney General


BENJAMIN J. CAYETANO
Governor
State of Hawaii

Date: 11-21-01
NOV 23 2001
Filed

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LIEUTENANT GOVERNOR'S
OFFICE